

August 11, 2003

Mr. Michael Kansler
Sr. Vice President and Chief
Operating Officer
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

SUBJECT: INDIAN POINT NUCLEAR GENERATING STATION, UNIT 1 - ISSUANCE OF
AMENDMENT RE: CHANGES TO EFFECTIVELY COORDINATE INDIAN
POINT NUCLEAR GENERATING STATION, UNITS 1 AND 2, PROGRAMS
(TAC. NO. MB5259)

Dear Mr. Kansler:

The U.S. Nuclear Regulatory Commission (the Commission) has issued the enclosed Amendment No. 52 to Provisional Operating License No. DPR-5 for the Indian Point Nuclear Generating Station, Unit 1 (Indian Point or IP1). The amendment consists of changes to the Technical Specifications (TSs) and License in response to your application dated May 30, 2002.

Specifically, the proposed changes would simplify the IP1 TSs to facilitate the Indian Point Generating Station, Unit 2 (IP2) transition to the improved TSs. The amendment also proposed changes to the requirements of the "Order to Authorize Decommissioning and Amendment No. 45 to License No. DPR-5 for Indian Point, Unit No. 1," to ensure compliance with the current requirements of 10 CFR 50.59 and 10 CFR 50.82. The amendment also proposed to change the expiration date of Provisional Operating License No. DPR-5 for IP1 to be current with the expiration date for the Facility Operating License No. DPR-26 for IP2.

A copy of our related Safety Evaluation is enclosed. The Notice of Issuance will be included in the Commission's next biweekly *Federal Register* notice.

Sincerely,

/RA/

John L. Minns, Project Manager, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-003

Enclosures: 1. Amendment No. 52 to DPR-5
2. Safety Evaluation

cc w/encls: See next page

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cc w/encls: See next page

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RidsRgn4MailCenter (AHowell)

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Package No.: ML032240294

Tech Spec Pages No.: ML032240393

*No significant change to SE

NRR-100

ADAMS Accession No.: ML032240282

**See previous concurrence

NRR-058

OFFICE	PDIV-1/PM	PDIV-1/LA	NRR/RORP	OGC	PDIV-1/SC
NAME	JMinns	DJohnson	S.Magruder*	AHodgdon**	RGramm
DATE	8/04/2003	8/07/2003	6/11/03	8/11/2003	8/11/2003

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ENTERGY NUCLEAR OPERATIONS, INC.

DOCKET NO. 50-003

INDIAN POINT NUCLEAR GENERATING STATION, UNIT 1

AMENDMENT TO PROVISIONAL OPERATING LICENSE

Amendment No. 52
License No. DPR-5

1. The U.S. Nuclear Regulatory Commission (the Commission) has found that
 - A. The application for amendment by Entergy Nuclear Operations, Inc. (the licensee), dated May 30, 2002, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied.
2. Accordingly, License No. DPR-5 is hereby amended as indicated in the attachment to this license amendment, and paragraphs 3.B and 9 of Provisional Operating License No. DPR-5 are hereby amended to read as follows:

3.B. Technical Specifications

The Technical Specifications contained in Appendices A and B, as revised through Amendment No. 52 , are hereby incorporated in the license. ENO shall maintain the facility in accordance with the Technical Specifications.

9. The amended license is effective as of the date of issuance, shall be implemented within 30 days, and shall expire at midnight, September 28, 2013.
3. This license amendment is effective as of its date of issuance and shall be implemented within 60 days from the date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Robert A. Gramm, Chief, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the
Technical Specifications
and Provisional Operating
License

Date of Issuance: August 11, 2003

ATTACHMENT TO LICENSE AMENDMENT NO. 52
TO PROVISIONAL OPERATING LICENSE NO. DPR-5
DOCKET NO. 50-003

Replace the following pages of the Provisional Operating License and Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

<u>Remove</u>	<u>Insert</u>
LICENSE	
8	8
TECHNICAL SPECIFICATIONS	
i	i
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12

9. The approved Decommissioning Plan supplements the Final Safety Analysis Report (FSAR) and the licensee may (i) make changes in the facility or procedures as described in the FSAR or the Decommissioning Plan and (ii) conduct tests, or experiments not described in the FSAR or Decommissioning Plan, without prior Commission approval, provided the requirements of 10 CFR 50.59 and 10 CFR 50.82(a)(6) and (7) are satisfied.
10. The amended license is effective as of the date of issuance, shall be implemented within 30 days, and shall expire at midnight, September 28, 2013.

FOR THE ATOMIC ENERGY COMMISSION

Original signed by
E.G. Case

R.L. Doan, Director
Division of Reactor Licensing

Date of Issuance, October 29, 1965

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 52 TO
PROVISIONAL OPERATING LICENSE NO. DPR-5
ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING STATION, UNIT 1
DOCKET NO. 50-003

1.0 INTRODUCTION

By application dated May 30, 2002, Entergy Nuclear Operations, Inc. (ENO or the licensee) requested changes to the Technical Specifications (TSs) for the Indian Point Nuclear Generating Station, Unit 1 (IP1). Specifically, the proposed changes would revise the IP1 TSs to facilitate the Indian Point Generating Station, Unit 2 (IP2) transition to the Improved TSs (ITS). The amendment also proposed changes to the requirements of the "Order to Authorize Decommissioning and Amendment No. 45 to License No. DPR-5 for Indian Point Unit No. 1," dated January 31, 1996," (the Order) to ensure compliance with the current requirements of 10 CFR 50.59, "Changes, tests, and experiments," and 10 CFR 50.82, "Termination of license." In addition, the amendment proposed changing the expiration date of Provisional Operating License No. DPR-5 for IP1 to the current expiration date for the Facility Operating License No. DPR-26 for IP2.

2.0 REGULATORY EVALUATION

IP1 was permanently shut down on October 31, 1974, because the plant's emergency cooling system did not meet the current regulatory requirement. Pursuant to the October 17, 1980, "Decommissioning Plan for Indian Point Unit No. 1," approved by the U.S. Nuclear Regulatory Commission (NRC or the Commission) in the Order, the reactor remains in a defueled status and the unit continues to operate as a support facility for overall IP1 and IP2 operations.

The licensee's proposed TSs acknowledge this commonality as well as the intended use of IP1 facilities to support IP2 until retirement of that unit. IP1 encompasses many systems and buildings that are required for operation of IP2. Except for the fuel handling building, which houses the spent fuel, all major buildings, including the IP1 containment building, contain common facilities that will be used to support IP2 operations throughout the life of IP2. Because of the common systems and the operating organization at the two units, after shutdown of IP1, a number of amendments were proposed and issued for IP1 and IP2 to make the TS requirements more consistent.

The ITS were developed based on the criteria in the Final Commission Policy Statement on Technical Improvements for Nuclear Power Reactors, dated July 22, 1993 (58 FR 912), which was subsequently codified by changes to 10 CFR 50.36, "Technical specifications," (60 FR 36953). The Final Policy Statement described the safety benefits of the Standard TSs (STS) and encouraged licensees to use the STS as the basis for plant-specific TS amendments and for complete conversions to ITS based on the STS.

As specified in 10 CFR 50.36, the categories of items to be included in the plant TSs include safety limits, limiting safety system settings, limiting control settings, limiting conditions for operation, surveillance requirements, design features, and administrative controls. Over the years, the NRC staff (the staff) published a number of guidance documents regarding TS requirements and radiological controls, which provide information on methods acceptable to the staff for implementing specific parts of the Commission's regulations.

These documents include the following:

Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants"

Generic Letter (GL) 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications [RETS] in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program"

NUREG-1301, "Offsite Dose Calculation Manual Guidance: Standard Radiological Effluent Controls for Pressurized Water Reactors"

GL 95-10, "Relocation of Selected Technical Specification Requirements Related to Instrumentation."

However, 10 CFR 50.36(c)(6), "Decommissioning," states that for decommissioning plants that have submitted the certification required by 10 CFR 50.82(a)(1), TSs involving safety limits, limiting safety system settings, and limiting control system settings; limiting conditions for operation; surveillance requirements; design features; and administrative controls will be developed on a case-by-case basis.

3.0 TECHNICAL EVALUATION

The staff has reviewed the licensee's regulatory and technical analyses in support of its proposed license amendment to change the IP1 TSs to simplify and facilitate IP2 transition to the ITS. The detailed evaluation below will support the conclusion that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

3.1 Changes to TS Section 1.1, General Information:

3.1.1 Description of Changes

- a. Delete reference to the site size. The Indian Point Energy Center (IPEC) site that is occupied by IP1, IP2, and Indian Point Generating Station, Unit 3 is accurately described in IP2 TS Section 5.1, "Design Features - Site."
- b. Use the past tense to describe the IP1 reactor.
- c. Clarify that the Decommissioning Plan was approved by the Order.
- d. Delete definitions 1.1.2, Member(s) of the Public, 1.1.4, Process Control Program, and 1.1.6, Solidification.
- e. Delete the following wording: "and Restricted Area" from TS Section 1.2, Exclusion Distance; "of the Commission's regulations," from TS Section 1.2.1; and "For the purpose of satisfying 10 CFR Part 20, the Restricted Area is the same as the Exclusion Area defined in Figure 2.2.2 of Section 2.2 of the IP#2 FSAR [Final Safety Analysis Report]" from TS Section 1.2.2.
- f. Renumber TS Sections 2.5.1 under Electrical Power Supply, and 2.10 under Fuel Storage.

3.1.2 Evaluation of Changes

The staff reviewed the proposed changes in the licensee's mark up of "Appendix A to Provisional Operating License DPR-5 for Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Operations, Inc., Indian Point Station, Unit No. 1," that was included with the May 30, 2002, licensee submittal. The staff concurs that proposed changes do not affect ENO's method of complying with any regulation and that the remaining general information presented is accurate and not duplicative of information presented in the IP2 TSs. The deletion of Definitions 1.1.2, 1.1.4, and 1.1.6, and wording from TS Sections 1.2, 1.2.1, and 1.2.2 does not affect the plant operability or decrease the margin of safety, since the TS sections containing the deleted definitions are being deleted and, thus, the definitions are no longer needed. The staff reviewed the proposed deletion of wording "and Restricted Area" from the title of TS Section 1.2; wording from TS Sections 1.2, 1.2.1, and 1.2.2; and renumbering for TS Sections 2.5.1 under Electrical Power Supply, and 2.10 under Fuel Storage. The staff finds that the changes have no impact on safety. Based on the above review, the staff finds that proposed deleted items do not meet 10 CFR 50.36 for retention in the plant TSs, and are, therefore, acceptable.

3.2 Changes to TS Section 2.11, Fire Protection:

3.2.1 Description of Changes

The paragraph stating that the Fire Protection and Detection systems provided for protection of IP2 safe shutdown systems are addressed in the IP2 TSs, is deleted.

3.2.2 Evaluation of Changes

The staff reviewed the proposed change and finds that the statement in the deleted paragraph is inaccurate since the IP2 TS requirements to protect IP2 safe shutdown systems from fire have been relocated to License Condition 2.K by IP2 License Amendment No. 186. Thus, the statement is unnecessary since the regulatory requirements for the protection of IP2 safe shutdown systems from fire are now completely governed by the IP2 License Condition 2.K. The staff finds that proposed deleted items do not meet 10 CFR 50.36 for retention in the plant TSs, and may, therefore, be removed.

3.3 Changes to TS Sections 3.1, Responsibility; 3.2, Organization; and 3.3, Operating Instructions and Procedures:

3.3.1 Description of Changes

Responsibility requirements under TS Sections 3.1.1, 3.1.2, 3.2.1, 3.2.1 a., b., c., d., e., f., i., that are duplicated in both the IP1 and IP2 TSs are deleted from the IP1 TSs. TS 3.2.1.g and h are retained and renumbered as TS 3.2.1.a and b. Also, changes are proposed for TS 3.3.2 that IP1 written instructions shall conform to the relevant provisions of the IP2 TSs.

3.3.2 Evaluation of Changes

The staff reviewed proposed changes in TS Section 3.0 of the IP1 TSs. Section 1.0 of the IP1 TSs states: "Unit No. 1 and Unit No. 2 are physically contiguous and share a number of systems and facilities as well as a common operating organization. The technical specifications contained herein recognize this commonality as well as the intended use of the Unit No. 1 facilities to support Unit No. 2 until retirement of that unit, and contain specific references to Appendix A to the Indian Point Unit No. 2 Facility Operating License No. DPR-26." Based on this review, the staff finds that the proposed changes will simplify the administration of the Indian Point site for the ENO staff, in that future changes to the organization and to the assignment of responsibilities will require only a single license amendment; the effectiveness of the ENO organization to ensure compliance with both the IP1 and the IP2 licenses is not affected, and the clarifications that remain will clearly establish the responsibility of the IP2 licensed Operations Department personnel for the operation of IP1. In addition, the staff finds that proposed deleted items do not meet 10 CFR 50.36 for retention in the plant TSs, and may, therefore, be removed.

3.4 Changes to TS Sections 4.1.2, 4.1.3, and 4.1.4, Operating Limitations, General; and TS Section 5.2.6, Testing:

3.4.1 Description of Changes

References to specific TS section numbers 3.9, 3.9.D, 4.10, and 4.10.D of Appendix A to the IP2 Facility Operating License No. DPR-26, are deleted and, in some cases, replaced by reference to the Offsite Dose Calculation Manual (ODCM).

3.4.2 Evaluation of Changes

The staff reviewed the proposed change for removing references to the specific IP2 TS section numbers from the IP1 TSs and finds that the change does not alter the requirement to comply with the applicable IP2 TS sections. The proposed changes will simplify licensee future activities, in that the IP2 TSs may be changed without the need to also process a companion amendment to the IP1 license. The staff finds that proposed deleted items do not meet 10 CFR 50.36 for retention in the plant TSs. The changes are, therefore, acceptable.

3.5 Changes to TS Sections 4.1.4, Operating Limitations, General; and 5.2.5, Testing:

3.5.1 Description of Changes

The requirements for the radiation monitoring system for the Nuclear Services Building (NSB) sewage effluent line are deleted.

3.5.2 Evaluation of Changes

The licensee stated in its submittal that the NSB sewage effluent line radiation monitoring system was required to ensure that radioactive releases through the line were within 10 CFR Part 20 limits. The licensee stated that the toilet facilities for which monitoring was specified were originally located within the Radiologically Controlled Area (RCA) of the NSB at elevation 53', elevation 72', and elevation 84'. Two toilets, one located at elevation 84' and one located at elevation 72', were removed from the NSB in the mid 1980's. Furthermore, the toilet facilities at the 53' elevation of the NSB were originally located within the RCA; however, the RCA boundary has been relocated and the toilet facilities are now located outside the RCA. Therefore, there is no sewage from the NSB that originates within the RCA, and monitoring of this pathway can be removed from the IP1 TS.

Based on the above information, that there is no sewage from the NSB that originates within the RCA, the staff finds that monitoring requirement of this pathway may be removed from the IP1 TSs, and that this deletion will cause no change in the effectiveness of the controls at the IPEC site to comply with the liquid radioactive effluent 10 CFR Part 20. The staff finds that proposed deleted items do not meet 10 CFR 50.36 for retention in the plant TSs are consistent with the guidance contained in NUREG-1431 and may, therefore, be removed.

3.6 Changes to TS Sections 4.1.5 and 4.1.6, Operating Limitations, General; and Section 5.4, Sealed Sources:

3.6.1 Description of Changes

TS Sections 4.1.5, 4.1.6, 5.4, and the wording in TS 4.1.6, "Specification 4.11 of Appendix A to the Indian Point Unit No. 2 Facility Operating License No. DPR 26," are deleted. The requirements for the IPEC Units 1 and 2 site Meteorological Monitoring, Radiological Environmental Monitoring, and Sealed Source programs are deleted from the IP1 TSs. The Radiological Environmental Monitoring Program will be specified in the ODCM.

3.6.2 Evaluation of Changes

The licensee stated in their May 30, 2002, submittal that the above described programs are common IPEC Units 1 and 2 site programs whose activities cannot be identified by a Unit, and that the requirements of these programs are currently stated in the IP2 TSs. The staff reviewed TSs for IPEC Units 1 and 2 site Meteorological Monitoring, Radiological Environmental Monitoring, and Sealed Source programs stated in the proposed changes and finds that none of these programs meet any of the requirements of 10 CFR 50.36 for retention within the TSs. The staff finds that, with the implementation of the ITS at IP2, the requirements for these programs will reside in licensee controlled documents for their individual units. These proposed changes will eliminate the need for the licensee to process duplicate license amendments, should these programs be changed; and thus will simplify and reduce ENO resource requirements in future changes while ensuring the appropriate level of public safety. Any future changes will be under regulatory control and requirements set forth in the 10 CFR 50.59 process. Based on the above review, the staff finds that the proposed changes are in compliance with 10 CFR 50.20 and are not required by 10 CFR 50.36 to be retained in TSs. The proposed changes are, therefore, acceptable.

3.7 Changes to TS Sections 4.1.7, Operating Limitations, Radiation Protection Program;

3.7.1 Description of Changes

Delete TS Section 4.1.7, "Radiation Protection Program." The requirements for a radiation protection plan are eliminated from the IP1 TSs.

3.7.2 Evaluation of Changes

In its May 20, 2002, submittal, the licensee stated that there is currently a single, common radiation protection program for IPEC Units 1 and 2, and that the requirements for ENO compliance with 10 CFR Part 20 are included separately in IP1 license paragraph 3 and IP2 license condition 2.C. The staff reviewed license conditions for both IP1 and IP2, and finds that both units have separate requirements for compliance with 10 CFR Part 20 in their license conditions, and thus the proposed change will only delete duplicative requirements in license conditions for each unit. Based on the above review, the staff finds that the proposed changes comply with 10 CFR 50.20, and that they are not required by 10 CFR 50.36 to be retained in the TSs. The proposed changes are, therefore, acceptable.

3.8 Changes to TS Sections 6.1, Routine Reports and Reportable Occurrences; 6.2, Special Reports; and 6.3, Reportable Event Action:

3.8.1 Description of Changes

TS 6.1 wording "In addition to the applicable reporting requirements of Title 10, Code of Federal Regulations, the following reports shall be submitted to the Regional Administrator Region I, unless other wise noted;" and TS Sections 6.1.2, 6.1.2.1, 6.1.2.2, 6.1.3, 6.1.3.1, 6.1.3.2, 6.2, 6.2.1, 6.2.2, 6.3, 6.3.1, 6.3.2, and 6.4 are deleted from IP1 TSs. Reporting requirements for IP1 are incorporated by referencing the corresponding IP2 TSs.

3.8.2 Evaluation of Changes

The licensee stated in its May 30, 2002, submittal that the requirements of the above proposed deleted TS sections are duplicative of IP2 TS requirements, and are included in its justification that the proposed change to delete these requirements will not affect the responsibility of ENO to make the reports, but it will simplify the administration of ENO's license requirements and also will reduce licensee resource requirements. Furthermore, the licensee stated that reporting requirements for IP1 are incorporated by referencing the corresponding IP2 TSs. The staff reviewed the mark-up of the proposed deletion and finds that the proposed deleted TS sections are duplicative of IP2 TS requirements. The changes are, therefore, acceptable.

3.9 Changes to TS Section 6.4 to Clarify the Applicability of IP1 FSAR:

3.9.1 Description of Changes

The proposed changes add clarification that pages 171 through 176 are part of Section 3.7.1. In addition, the TS section is relocated to "Definitions" and references to documents are clarified.

3.9.2 Evaluation of Changes

The licensee stated in its May 30, 2002, submittal that information in the IP1 FSAR is largely historical, and that the only remaining safety functions are related to the maintenance of the spent fuel. The intent of the current TS Section 6.4 paragraph, which is proposed to be deleted from IP1 TSs, was to identify the sections of the IP1 FSAR that are applicable to its current license conditions. The licensee stated that FSAR Section 3.7.2 describes the Spent Fuel Cooling system. Pages 171 through 176 are actually part of Section 3.7.1 that describes the Fuel Handling Building Crane and Facilities. Both are applicable. Based on the above review, the staff finds the proposed identification of applicable FSAR Sections, proposed relocation to the definitions section, and correct identification of references to be administrative and for clarification purposes. In addition, the staff finds the proposed change to be editorial and administrative in nature. The proposed change is, therefore, acceptable.

4.0 REGULATORY REQUIREMENT: THE "ORDER"

The Commission's regulations at 10 CFR 50.59 establish the conditions under which the licensee may implement changes to its facility that are described in the Decommissioning Plan (DP) or, in the case of IP1 Regulatory Requirement: The Order, without prior NRC approval. These regulations further establish conditions under which the licensee may conduct tests or experiments that are not described in the Order without prior NRC approval.

On October 4, 1999, the NRC published in the *Federal Register* (64 FR 53582), notice of revisions to 10 CFR 50.59 that became effective on March 13, 2001. The revisions to 10 CFR 50.59 clarified the specific type of changes, tests, or experiments that may be implemented without prior NRC approval. The revisions in 10 CFR 50.59 also clarified the specific types of changes, tests, and experiments that require evaluation by the licensees. The revisions to 10 CFR 50.59 further added definitions for certain terms and reorganized 10 CFR 50.59 for clarity.

The IP1 DP supplements the Safety Analysis Report. Accordingly, a license condition was added allowing the licensee to make changes to the DP and Safety Analysis Report after performing a review based upon the criteria of 10 CFR 50.59 to ensure that such changes did not involve an "unreviewed safety question." The revision to 10 CFR 50.59 eliminated the use of the expression "unreviewed safety question." The licensee has proposed changes to the Order to reflect the current criteria of 10 CFR 50.59.

4.1 Proposed Changes to the Order:

The licensee proposed to amend the requirements of the Order to ensure compliance with 10 CFR 50.59 and 10 CFR 50.82. The specific changes requested are:

On page 2, second paragraph, replace the phrase ~~"after performing a review based upon criteria similar to the criteria of Title 10 of the Code of Federal Regulations (10 CFR 50.59) to ensure that such changes do not involve an unreviewed safety question."~~ with the revised phrase "without prior Commission approval, provided the requirements of 10 CFR 50.59 and 10 CFR 50.82(a)(6) and (7) are satisfied."

Order Condition (a)(1). Replace the phrase ~~"unless the proposed changes, tests, or experiments involve a) a change in the Technical Specifications (TSs) incorporated in the license, or b) an unreviewed question, or c) major dismantlement activities such as removal of the reactor pressure vessel or other major radioactive components"~~ with the revised phrase "provided the requirements of 10 CFR 50.59 and 10 CFR 50.82(a)(6) and (7) are satisfied."

Delete Order Conditions (a)(2), (b) and (c).

4.2 Evaluation of Changes to Order:

The proposed changes would revise the Order to provide consistency with the Commission's regulations. The Commission's final rule of October 4, 1999, which revised 10 CFR 50.59, affected the wording of the Order. In the revision to 10 CFR 50.59, the Commission replaced the term "involves an unreviewed safety question" with "requires prior NRC approval."

The Order replaces the phrase "after performing a review based upon criteria similar to the criteria of Title 10 of the Code of Federal Regulations (10 CFR 50.59) to ensure that such changes do not involve an unreviewed safety question" with the phrase "without prior Commission approval, provided the requirements of 10 CFR 50.59 and 10 CFR 50.82(a)(6) and (7) are satisfied." The proposed changes will ensure effective compliance with the Commission's requirements by eliminating ambiguity and confusion.

The IP1 DP constitutes a post-shutdown activities report for the purposes of complying with 10 CFR 50.82. A description of the conditions under which changes can be made is provided in 10 CFR 50.82. Since the DP only approved the SAFSTOR of IP1 and not the dismantlement, the Order requires the submittal of a detailed dismantling plan for NRC review and approval prior to major dismantlement activities at IP1.

P1 License Condition 3.C requires the retention of records under applicable regulations. The requirements of 10 CFR 50.59 applies to IP1 changes, tests, and experiments. Order Condition (b) is duplicative of (but slightly different from) the current 10 CFR 50.59(d).

Order Condition (c) is duplicative of the requirements in 10 CFR 50.59(c)(1) and (2) that specify whether a license amendment, pursuant to 10 CFR 50.90, is required prior to implementing a proposed change, test, or experiment.

The NRC staff finds the licensee's proposal to replace the phrase "after performing a review based upon criteria similar to the criteria of Title 10 of the Code of Federal Regulations (10 CFR 50.59) to ensure that such changes do not involve an unreviewed safety question" with the phrase "without prior Commission approval, provided the requirements of 10 CFR 50.59 and 10 CFR 50.82(a)(6) and (7) are satisfied," in the Order, to be consistent with the revised 10 CFR 50.59 and, therefore, acceptable. In addition, the requested changes do not foreclose release of the site for possible unrestricted use, result in significant environmental impacts not previously reviewed, or result in there no longer being assurance that adequate funds will be available for decommissioning. The requested changes do not involve a major dismantling activity nor do they affect the DP. The proposed IP1 license changes involve replacing references to superseded regulatory requirements with references to current regulatory requirements.

Pertaining to Proposed Change to the IP1 Provisional License

The licensee proposed to amend the IP1 license to change the expiration date from "midnight, October 14, 2006" to "midnight, September 28, 2013," to be consistent with the Order.

The possession-only license issued January 31, 1996, revises the TSs and renews the license until September 28, 2013, to make the expiration date consistent with that of the IP2 license. Therefore, the request is acceptable.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, the New York State official was notified of the proposed issuance of the amendment. The State official had no comments.

6.0 ENVIRONMENTAL CONSIDERATION

The amendment relates to changes in recordkeeping, reporting, or administrative procedures or requirements. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration, and there has been no public comment on such finding (67 FR 45564, published July 9, 2002). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(10). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

7.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by

operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

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